IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
WRIT PETITION NO. 4051 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.N.V. Bandivadekar for Petitioner.

Mr.R.D. Rane, A.G.P. for Respondnet No.1.

Mr. A.S. Rao for Respondent No. 2.

CORAM : F.I. REBELLO &
S.P. KUKADAY,JJ.
DATED : JANUARY 28, 2005

P.C.

. Rule. Heard forthwith.

. The Petitioner is presently holding the post of Deputy Engineer with Respodnent NO. 2 having been appointed on 5.10.1996. It is the case of the petitioner that in terms of the recruitment rules or administrative instructions, in force, he ought to have been eligible for consideration on completion of three years to the post of Executive Engineer. The Petitioner belongs to scheduled tribes. There was post reserved for S.T. against which Respodnent initially appointed on 1.9.1997 one Mr. Vijay Sidhaye. The appointment order however show that it was temporary appointment till such time the S.T.

candidate becomes available. By subsequent order of 19.10.2002 it seems that Sidhaye has been given promotion to the post of Executive Engineer. There is nothing on record to show that such promotion is against reserved post as it could not have been open to Respondent No. 2 to fill in the post meant for reserved candidate by an open candidate. Mr. Sidhaye has since then retired. We are not really concerned with that issue. The short question is of non consideration of petitioner herein. ON behalf of the Respondent, the learned counsel contends that disciplinary proceedings were initiated against the petitioner herein. However, those proceedings pursuant to the judgment of this court were set aside. It is however, sought to be pointed out on behalf of the Respondent No. 2 that the matter is still pending.

. It is also pointed out that the petitioner was earlier considered before the Judgement of this Court dated 26.8.2003. Earlier D.P.C. seems to be of 5.9.2002.

. Considering the above, the following

order :

(1) Respondent No. 2 is directed to consider the Petitioner for promotion to the post of Executive Engineer for the post reserved for S.T.

(2) In the event, the D.P.C. on 5.9.2002 had rejected the petitioner's case, considering subsequent order of this court on 26.8.2003 to re-consider the same.

(3) In the event any enquiry is pending against the petitioner, the respondent No. 2 would be entitled to follow the sealed cover procedure.

(4) Respondent No. 2 is directed to convene the D.P.C. within eight weeks from today.

(5) Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO,J.)

(S.P.KUKADAY,J.)